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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,606	01/08/2007	Julian Mark Watson	JAMES118.001APC	5402
20995	7590	04/01/2008	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			BAKER, DAVID S	
2040 MAIN STREET			ART UNIT	PAPER NUMBER
FOURTEENTH FLOOR			2884	
IRVINE, CA 92614				

  

NOTIFICATION DATE	DELIVERY MODE
04/01/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/577,606	WATSON, JULIAN MARK	
	<b>Examiner</b>	<b>Art Unit</b>	
	DAVID S. BAKER	2884	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 April 2006.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-12 is/are allowed.  
 6) Claim(s) 13 is/are rejected.  
 7) Claim(s) 14 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 April 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>07/31/06</u> .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 31 July 2006 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. Foreign Patent Document 4 has not been considered.

### ***Claim Objections***

2. Claim 14 is objected to under 37 CFR 1.75(c) as being in improper form because a dependent claim must be presented in a form that refers back to and further limits another claim or claims in the same application. Accordingly, claim 14 has not been further treated on the merits.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dimond (WO 2001/005519 A1).

Regarding claim 13, Dimond discloses a photoluminescence pigment application apparatus comprising: a first hopper adapted to contain a first powdered component (F:1-3; P:3 L:3-11); the first hopped being adapted to allow continuous transfer of the

powdered component from the first hopper through a first die (F:1-3; P:4 L:11-17) to the first at least one recess by operation of gravity(F:1-3; P:8 L:20-24); a transport device for holding the substrate below the hopper in sliding engagement with the first die to permit a continuous delivery of the first powdered components into the recesses (F:1-3; P:9 L:21-24); and an oven adapted to receive at a portion of the substrate (F:1-3; P:5 L:21-23), the oven providing sufficient heat to turn the components into a molten mixture (F:1-3; P:4 L:19-20). Dimond does not disclose expressly a second hopper performing an identical task as the first hopper with a second powdered component. However, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to provide a second hopper acting similarly as the first hopper since it has been held that, absent some new or unexpected result, the duplication of a part requires only routine skill in the art. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Additionally, the motivation for adding a second hopper with a second powdered component would be to decrease the filling time for substrates with multiple recesses.

***Allowable Subject Matter***

5. Claims 1-12 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 1, the prior art of record does not disclose or reasonably suggest, along with the other claimed limitations, a method of manufacturing a slip-resistant photo-luminescent device comprising: namely the combination of, preparing a first powdered component of resin and friction-enhancing material; preparing a second powdered component of resin and a photo-luminescent pigment; and fusing the resins to

bond them to the surface of a substrate within separate recesses. While prior art such as Connew teach the use of a photo-luminescent strip set in a substrate's recess, the shape of the apparatus provides added traction without the need of a friction-enhanced parallel strip. Andreo teaches a similar device but in his embodiment, the strip set in a substrate recess is a non-slip material. A photo-luminescent material is coated in between the strips of non-slip material in order to provide protection from direct foot traffic. To make a strip of Andreo a photo-luminescent material would teach against the disclosure because it would place the photo-luminescent material in contact with foot traffic; something Andreo specifically strives to avoid.

Regarding claims 2-10, the balance of claims is found allowable due to their dependence upon an already allowed claim and lacking any technical errors.

Regarding claim 11, the prior art of record does not disclose or reasonably suggest, along with the other claimed limitations, a slip-resistant photo-luminescent device comprising: namely the combination of, a substrate with a strip of photo-luminescent material bonded into a first recess; a strip of friction-enhancing material bonded into a second recess; wherein both materials are heat cured resins fused to the recesses' surfaces. For additional reason for allowance, please see the explanation with claim 1 above.

Regarding claim 12, the balance of claims is found allowable due to their dependence upon an already allowed claim and lacking any technical errors.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US 7,297,388 B2 – Dimond discloses a hopper dispensing system for luminescent powder.

US 6,875,989 B2 – Nolt discloses a photo-luminescent floor tile.

US 6,841,785 B2 – Nolt discloses a photo-luminescent floor tile.

US 6,726,952 B1 – Dimond discloses discloses a hopper dispensing system for luminescent powder.

US 6,696,126 B1 – Fischer discloses a rough luminescent coating.

US 6,726,952 B1 – Dimond discloses discloses a hopper dispensing system for luminescent powder.

US 5,904,017 A – Glatz discloses a photo-luminescent safety attachment for floors, walls, handrails, etc.

US 5,763,070 A – Kerlek discloses a photo-luminescent coated rough surface treatment.

US 5,103,608 A – Andreo discloses a stair nosing with photo-luminescent material coated between non-slip strips.

US 4,998,391 A – Connew discloses a stair nosing with photo-luminescent strips.

US 4,360,557 A – Miller discloses an abrasive photo-luminescent coating.

US 4,058,942 A – Naka discloses a stair nosing formed into traction strip with an embedded photo-luminescent strip.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID S. BAKER whose telephone number is (571)272-6003. The examiner can normally be reached on MTWRF 10:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DSB  
/David P. Porta/  
Supervisory Patent Examiner, Art Unit 2884